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BY ECF

Hon. Andrew L. Carter
United States District Judge
Southern District of New York
40 Foley Square
New York, New York 10007

Re: *E.F. et al. v. Adams, et al.*
Index No. 21 CV 11150 (ALC) (SN)

Dear Judge Carter,

I am an Assistant Corporation Counsel in the Office of Hon. Sylvia O. Hinds-Radix, Corporation Counsel of the City of New York, and attorney for the City Defendants in the case referenced above. I write jointly with counsel for the other parties, and pursuant to the Court's Order, set forth in its Opinion and Order dated March 1, 2022, to provide this status update.

In preparing this letter, counsel for City Defendants communicated by email with Elisa Hyman, Esq., and James Sanborn, Esq. two of Plaintiffs' attorneys, as well as Elyce Matthews, Esq., and Mark Ferguson, Esq., attorneys for the State Defendants. As noted, this letter is submitted jointly.

Defendants' Update

Regarding the progress of the implementation of the "OATH plan" (the plan by which impartial due process hearings in New York City for claims brought pursuant to the Individuals with Disabilities Education Act will be adjudicated by OATH, *i.e.* the Office of Administrative Trials and Hearings), Defendants have continued to make progress since the parties' last joint status letter to the Court. As noted in the last status letter, OATH now has 18 hearing officers hired and onboard, all of whom have been certified by the State. 13 more hearing officers have now accepted offers and are likely to begin work this month or in May. Of these 13 hearing officers, 3 are already certified as impartial hearing officers and the other 10

will undergo training to obtain certification in May. Cases continue to be assigned to the OATH hearing officers who are already onboard and certified.

Regarding the related proceeding of *Gronbach et al. v. N.Y. State Education Department et al.*, Index No. 910574-2021 in the New York State Supreme Court in the County of Albany, the City and State's cross-motions to dismiss and Petitioners' application for a preliminary injunction are both now fully briefed. The parties are waiting for a decision from the court.

Plaintiffs' Update

Defendants have yet to voluntarily provide Plaintiffs with the names of the new hearing officers. Plaintiffs are not sure why Defendants will not release the identity of hearing officers and their qualifications to the public.

State Defendants have published proposed regulations which, if adopted, will modify the rotational system in New York to, *inter alia*, enable City Defendants to (a) prioritize assignments to the OATH IHOs; and (b) unilaterally allow OATH administrators to reassign cases between "impartial hearing officers employed by, or reporting to such permanent standing administrative tribunal, to manage administrative needs such as workload distribution." Plaintiffs' understanding is that the proposed amendments will allow City Defendants to change hearing officers, based on case assignments, despite the fact that cases were assigned pursuant to the rotation in the first instance. Public hearings are scheduled for June 8, 2022 and June 15, 2022.

The parties jointly thank the Court for its consideration of this matter.

Respectfully submitted,

s/

Andrew J. Rauchberg
Assistant Corporation Counsel

cc: All counsel of record